

A-6742
Special Permit Request

Install two (2) wood fence panels, one on either side of existing wood posts located in the West Kirke Street public right-of-way. The proposed panels would each measure a maximum of four (4) feet in height and six (6) feet in length and would be located two (2) feet from the inside (north) edge of the public sidewalk.

Mr. and Mrs. Thomas S. Dann
27 West Kirke Street

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
JUNE 8, 2015 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 6/4/2015

SUBJECT: HEARING OF CASE NO. A-6742 SPECIAL PERMIT REQUEST
MR. THOMAS A. DANN AND MS. MELISSA SHACKLETON DANN; 27 WEST KIRKE STREET
INSTALL TWO (2) WOOD FENCE PANELS, ONE ON EITHER SIDE OF EXISTING WOOD POSTS LOCATED
IN THE WEST KIRKE STREET PUBLIC RIGHT-OF-WAY. THE PROPOSED PANELS WOULD EACH
MEASURE A MAXIMUM OF FOUR (4) FEET IN HEIGHT AND SIX (6) FEET IN LENGTH AND WOULD BE
LOCATED TWO (2) FEET FROM THE INSIDE (NORTH) EDGE OF THE PUBLIC SIDEWALK.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 25-6(b)(2) states:

All fences, lamp posts, trees, hedges, shrubbery and other growth shall be installed at least three (3) feet from the public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the applicant's property, six (6) feet from the curb, or if there is no public sidewalk and no curb, six (6) feet from the nearest edge of the paved edge of the street.

APPLICABLE COVENANTS:

Not applicable; verification of compliance with the property's covenants is not required for Special Permit requests authorized by Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [Public Rights-of-Way] of the Village Code.

FACTUAL AND BACKGROUND INFORMATION:

The Property is located on the northwest corner of West Kirke Street and Magnolia Parkway.

Two existing posts, one on either side of the front walkway and flanked by metal panels, measure fifty-two inches in height and are located two (2) feet from the public sidewalk. The wood posts would remain and the metal panels would be removed and replaced with the proposed wood panels.

The height of the proposed panels (four feet maximum and tapering to lower) is compliant; it is the distance to the public sidewalk which requires the Special Permit.

The Applicants also have a variance application being heard this month to install fencing that measures six and one-half (6-½) feet forward of the twenty-five (25) foot front (Magnolia Parkway) BRL and will be applying for administrative permits for compliant fencing in other locations.



Figure 1: View of 27 West Kirke Street. The existing wood posts are located two feet from the sidewalk and would remain. The metal panels would be replaced with the proposed wood panels measuring a maximum of four (4) feet in height and located two (2) feet from the public sidewalk.

The Applicants provided an early photo of the property which shows a fence in approximately the same location as the proposed but running along the entire length of the West Kirke Street yard. The Applicants state they believe this fence was removed in the 1990's; see page 11 of the application materials.

The proposed fence panels have been approved by the Historic Preservation Commission (HPC).

There are no trees in the vicinity of the proposed work and there are no tree protection concerns related to installation of the fencing panels.

To date, no letters have been received either in support of or opposition to the request.

Applicable Fees: Building Permit Application: \$50; Special Permit Application Fee: \$300. If approved the License to Use the Public Right-of-Way fee will be \$175.

RELEVANT PRIOR CASES:

Note: Prior to 1999, installation of any structure in the public right-of-way required approval from the Board of Managers. Many Special Permit applications regarding installation of a fence in the public right-of-way concerned the height of the fence and are for properties located along busy streets such as Brookville Road or Connecticut Avenue. The proposed fence in this application is compliant with the height regulations; the request regards distance to the public sidewalk. The most comparable cases are:

In April 1989 Mr & Mrs. C. Benjamin Crisman of 20 West Kirke Street were granted a special exception to **construct** a fence measuring five feet in height in the West Kirke Street and Magnolia Parkway public rights-of-ways. The wood fence replaced a chain link fence in the same location. The application does not reference the distance to the sidewalk, however it is approximately two feet. In June 2003 Ms. Megan Rupp and Mr. Dane Butswinkas of 3 Newlands Street were granted a Special Permit to **construct** a fence in the Newlands Street public right-of-way, which would flank existing masonry piers on either side of the front walkway of the property (as the wood posts do in this application). Portions of the fences would be located as close as eighteen inches to the public sidewalk, which according to the Applicants was necessary in order to align the proposed fences with the piers. (The fencing was either never installed or has since been removed). In November 2009, Ms. Megan Rupp and Mr. Dane Butswinkas of 7 West Kirke Street were **granted** a Special Permit to replace a picket fence in the Laurel Parkway public right-of-way. In April 2011 Dr. & Mrs. Lawrence Heilman were **granted** a Special Permit to replace a stockade fence measuring six feet in height that was closer than two (2) feet to the sidewalk in the Cedar Parkway public right-of-way (the fence was located twenty-one inches from the sidewalk) with a wood flatboard fence in the same location and at the same height. In June 2012 Mr. & Mrs. Jeffrey Shuren of 108 Hesketh Street were granted permission to **construct** a new pair of cheekwalls alongside reconstructed steps in the Hesketh Street public right-of-way. The walls terminate twelve (12) inches from the public sidewalk. In February 2013 Mr. and Mrs. Alex Sternhell of 27 Primrose Street were granted permission to **construct** a new pair of cheekwalls alongside new steps in the Primrose Street public right-of-way which terminate twelve (12) inches from the public sidewalk.

FINDINGS REQUIRED:

1. The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;
2. The proposed Special Permit can be granted without substantial impairment of the intent and purpose of this chapter; and
3. For all Special Permits, except for Special Permits authorized by Sections 8-21, 8-26 or Chapter 25 of the Village Code, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property [not applicable in this case].

Draft Motion

I move to APPROVE/DENY the Special Permit request in Case A-6742 on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the Special Permit HAVE/HAVE NOT been met. Staff is directed to draft a decision based on this evidence, including findings of fact and conclusions, APPROVING/DENYING the Special Permit request.

**CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING**

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 8th day of June, 2015 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-6742
MR. THOMAS S. DANN &
MS. MELISSA SHACKLETON DANN
27 WEST KIRKE STREET
CHEVY CHASE, MARYLAND 20815**

The applicants seek a Special Permit from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to install two (2) wood fence panels, one on either side of existing wood posts located in the West Kirke Street public right-of-way. The proposed panels would each measure a maximum of four (4) feet in height and six (6) feet in length and would be located two (2) feet from the inside (north) edge of the public sidewalk.

Sec. 25-6(b)(2) states:

All fences, lamp posts, trees, hedges, shrubbery and other growth shall be installed at least three (3) feet from the public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the applicant's property, six (6) feet from the curb, or if there is no public sidewalk and no curb, six (6) feet from the nearest edge of the paved edge of the street.

Should the request be approved, before any Special Permit will be issued the Applicants must enter into a right-of-way license agreement in a form acceptable to the Village.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at www.chevychasevillagemd.gov or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) to abutting and confronting property owners on the 28th day of May, 2015.

Chevy Chase Village Office
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
301-654-7300



May 28, 2015

Mr. & Mrs. Thomas S. Dann
27 West Kirke Street
Chevy Chase, MD 20815

Dear Mr. & Mrs. Dann:

Please note that your request for a Special Permit and a variance to construct new fencing on your property and in the West Kirke Street public right-of-way abutting it is scheduled for consideration before the Board of Managers on Monday, June 8, 2015 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a decision for Board approval and signature by the Board secretary, following which the applicable Building Permit may be issued and the applicable license to use the right-of-way can be executed. No work may commence on the work until all applicable permits and license are obtained.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE

5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

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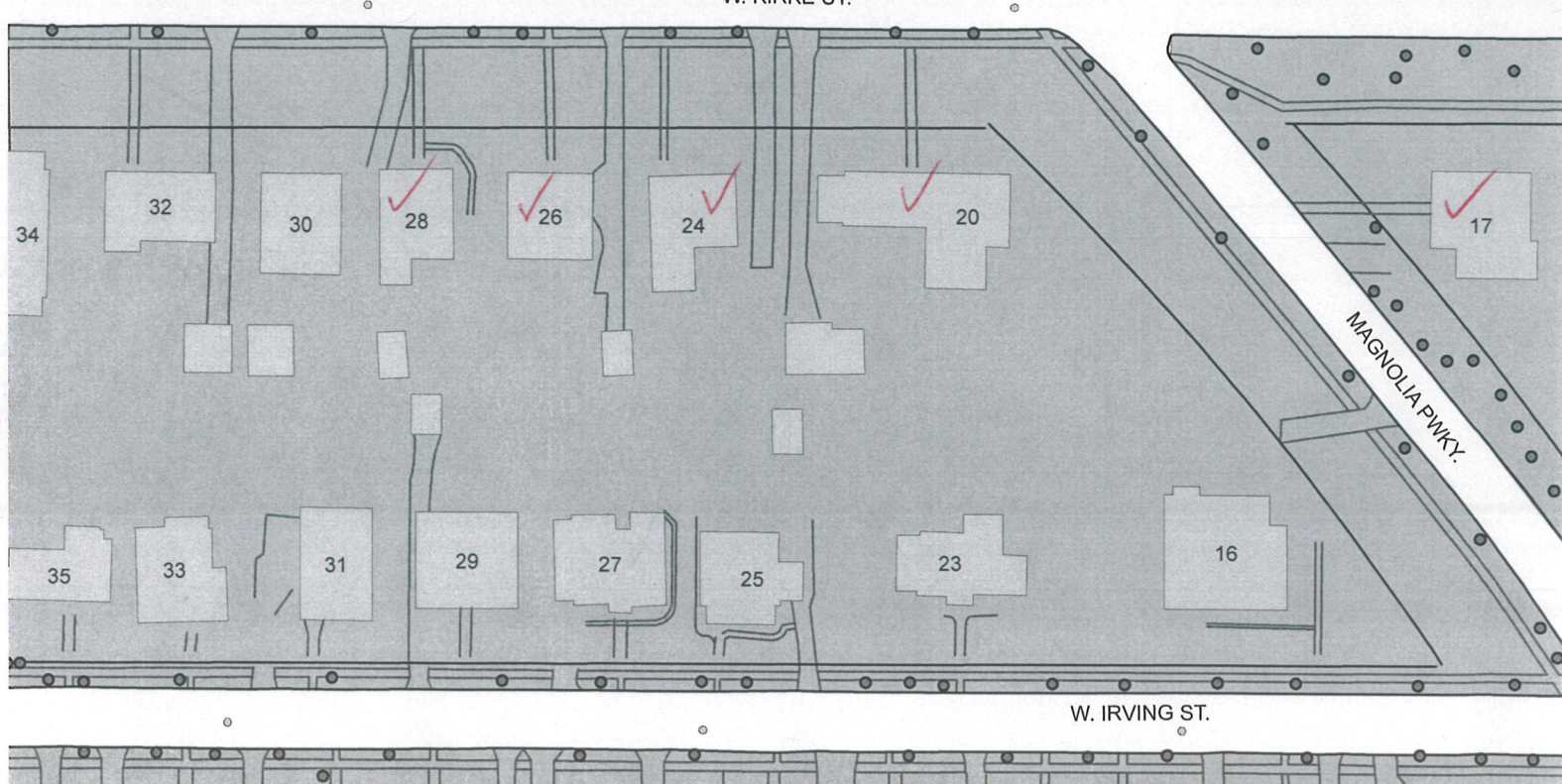
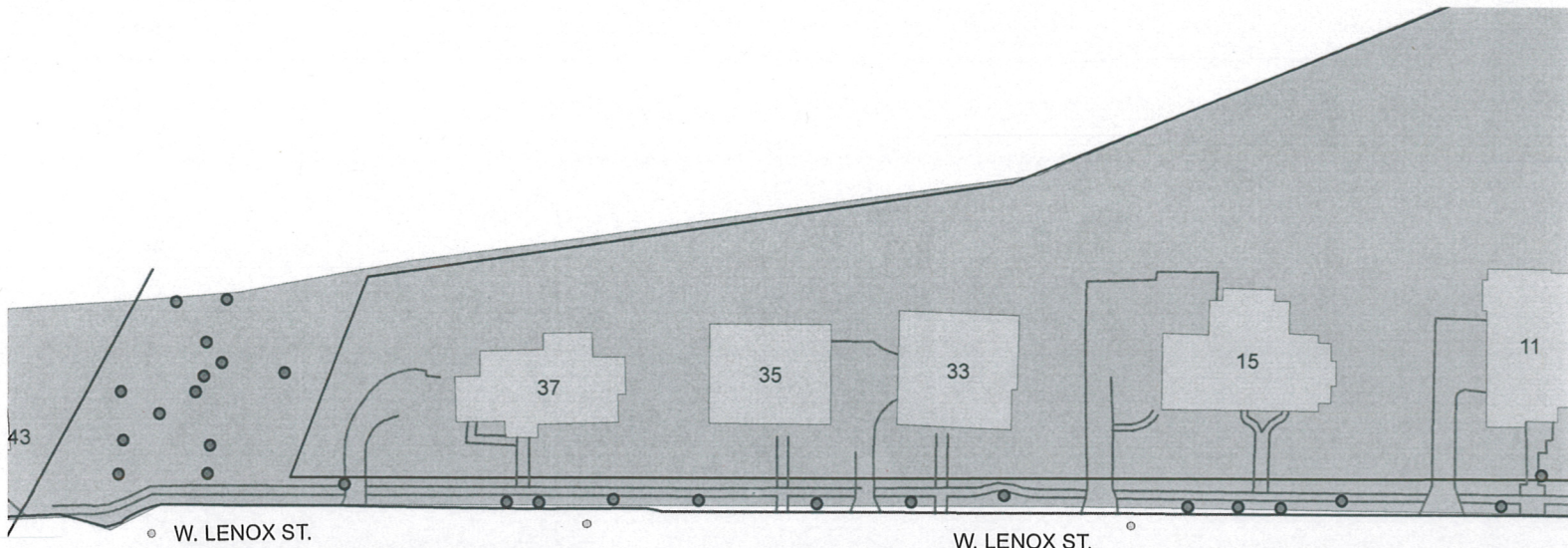
MAILING LIST FOR APPEAL A-6742

**MR. THOMAS S. DANN &
MS. MELISSA SHACKLETON DANN
27 WEST KIRKE STREET
CHEVY CHASE, MD 20815**

Adjoining and confronting property owners	
Mr. & Mrs. Dan Coughlan Or Current Resident 20 West Lenox Street Chevy Chase, MD 20815	Mr. & Mrs. Peter Keisler Or Current Resident 20 Magnolia Parkway Chevy Chase, MD 20815
Mr. & Mrs. Bryan Anderson Or Current Resident 29 West Kirke Street Chevy Chase, MD 20815	Ms. Margot Humphrey Or Current Resident 25 West Kirke Street Chevy Chase, MD 20815
Ms. Donna Evers Or Current Resident 28 West Kirke Street Chevy Chase, MD 20815	Mr. & Mrs. Richard A. Leach Or Current Resident 26 West Kirke Street Chevy Chase, MD 20815
Mr. & Mrs. Michael McGarry Or Current Resident 24 West Kirke Street Chevy Chase, MD 20815	Mr. & Mrs. C. Benjamin Crisman Or Current Resident 20 West Kirke Street Chevy Chase, MD 20815
Mr. & Mrs. C. King Mallory Or Current Resident 17 Magnolia Parkway Chevy Chase, MD 20815	


I hereby certify that a public notice was mailed (and emailed where possible) to the
aforementioned property owners on the 28th day of May, 2015.

**Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815**



Chevy Chase Village
Building Permit Application for Projects in the
Public Right-Of-Way

Permit No: _____

Property Address: 27 W. Kirk Street Chevy Chase, MD	
Resident Name: Tom + Melissa DANN	
Daytime telephone: 301.654.0626	Cell phone: 202.489.6201
After-hours telephone: "	
E-mail: melissadann@gmail.com	
Project Description: To install ^① a graduated white picket fence to run parallel to sidewalk off of 2 front posts flanking front walkway. This will replace the non-historic iron side panels. ^②	
Primary Contact for Project: <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Architect <input type="checkbox"/> Project Manager <input type="checkbox"/> Contractor* *MHIC/MD Contractor's License No. (required):	
Information for Primary Contact for Project (if different from property owner): Name: Work telephone: After-hours telephone: Cell phone: E-mail:	
Parking Compliance: Is adequate on-site parking available for the construction crews? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area. Will road closings be required due to deliveries, equipment or other reasons? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Guidelines for Construction in the Public Right-of-Way

The public property located between public sidewalks and abutting private property (or, in the absence of public sidewalks, located between the paved roadways and abutting private property) where such public property is under the immediate care and keeping by an abutting property owner or occupant, shall be considered to be public right-of-way devoted to private use. Any person intending to install private improvements in the public right-of-way must first obtain a Building Permit and a License to Use the Public Right-of-Way from the Village office, subject to the provisions of Chapter 25 of the Village Code. (Residents within the Historic District must also obtain a Historic Area Work Permit; please contact the Historic Preservation Commission directly.)

The following are examples of, but not limited to, improvements requiring a Building Permit and License to Use the Public Right-of-Way:

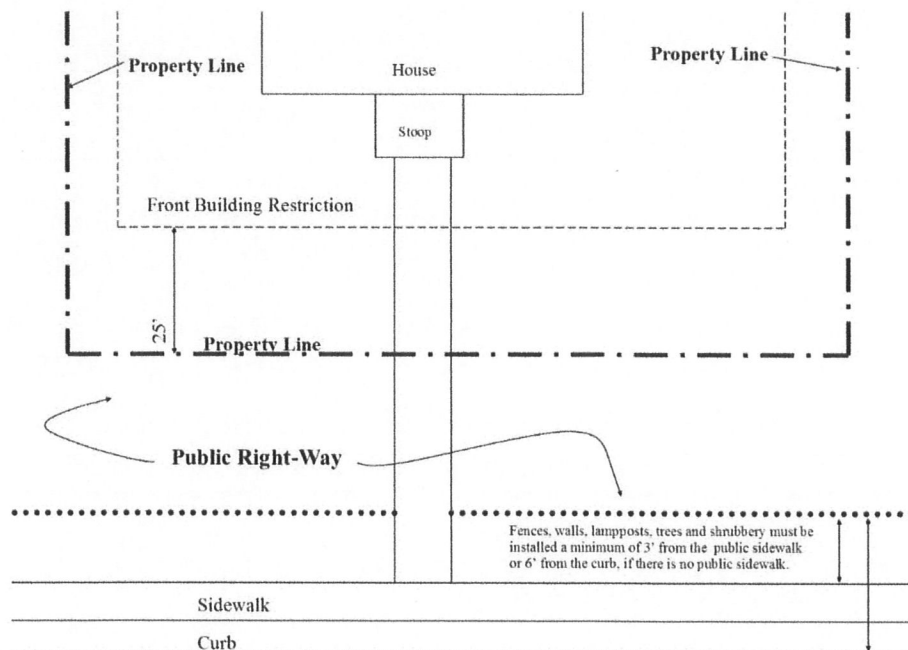
Overhead or underground wires, cables, hoses, pipes, and similar facilities.

Any person or persons, firm or corporation desiring to string, lay, hang, suspend or in any manner place wires of any kind, cables, hoses, pipes, and similar facilities on, over, or under any street or other public right-of-way

Structures, play equipment, fences, walls, lampposts, trees, hedges and shrubbery.

Subject to location requirements and height restrictions as outlined in Chapter 25 of the Village Code and diagrammed below.

Example of the Right-of-Way:



Building Permit Filing Requirements:

Application will not be reviewed until the appropriate information is supplied and complete

- ☒ This application form, signed by resident.
- ☒ Boundary Survey (Plat Diagram).
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☒ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued, if applicable). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Building Officer and Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

No signs advertising the architect, contractor, or any other service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest Code, and any covenants and easements on the subject property.


Applicant's Signature: Meli. L. R.

Date: 2 April 2015
M. L. R.

To be completed by Village staff:

Is this property within the historic district? Yes ☒ No ☐ Staff Initials: CS
Will the License be Recorded in the Land Records? Yes ☐ No ☒ Staff Initials: CS
Date application filed with Village: 4/2/15 Date permit issued: _____ Expiration date: _____

For Use By Village Building Officer & Village Manager	Application approved with the following conditions:
For Use By Village Building Officer & Village Manager	Application denied for the following reasons:

Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Application Fee: <input checked="" type="checkbox"/> \$50.00 Construction on the R.O.W. <input type="checkbox"/> \$30.00 Planting on the R.O.W. <input type="checkbox"/> \$350.00 R.O.W. Use Agreement <input type="checkbox"/> \$175.00 R.O.W. Use Agreement for in-kind replacement of an existing non-conformity in the same location. <input type="checkbox"/> \$175.00 R.O.W. Use Agreement for which recordation in the County Land records is waived.	
Tree Preservation Plan Fee: <input type="checkbox"/> \$250.00 <input checked="" type="checkbox"/> Not required for this project.	
TOTAL Fees: \$50.00	Date: 5/20/15 Staff Signature: 

Damage Deposit/Performance Bond (due when permit is issued) <input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
	Date: Village Manager Signature:
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: Village Manager Signature:

Chevy Chase Village

Application for a Special Permit

Chevy Chase Village Code Section 8-1 defines a Special Permit as permission granted by the Board of Managers in accordance with Article II Division B of this Chapter [8], to construct, install, remove or alter a structure or planting, or take other action where such permission is required by this Chapter.

Subject Property: <u>27 W. Kirke St.</u>	
Describe the Proposed Project: <u>We would like to remove the current, non-historic iron panels flanking our front 2 posts + replace them with more historically relevant white picket panels.</u>	
Applicant Name(s) (List all property owners): <u>Tom + Melissa Dann</u>	
Daytime telephone: <u>301-654-0426</u>	Cell: <u>202-489-6201</u>
E-mail: <u>melissadann@gmail.com</u>	
Address (if different from property address):	
For Village staff use:	
Date this form received: <u>5/18/15</u>	Special Permit No: <u>A-6742</u>

Filing Requirements:

Applications will be reviewed for satisfaction of all requirements and are not considered complete until approved as such by staff.

- ☒ Completed Chevy Chase Village Application for a Special Permit (this form)
- ☐ Completed Chevy Chase Village Building Permit Application
- ☐ Completed Chevy Chase Village Website Posting Notice
- ☒ A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- ☒ Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- ☐ Copy of Covenants, except for Special Permits authorized by Sections 8-21 and 8-26 of Chapter 8, or Section 25-5 and 25-6 of Chapter 25 of the Chevy Chase Village Code.
- ☐ Applicable Special Permit fee listed in Chapter 6 of the Village Code.

Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this special permit request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: [Signature]

Date: 5-18-15

Applicant's Signature: [Signature]

Date: 5-22-15

Describe the basis for the Special Permit request (Applicants should become familiar with the pertinent sections of the Village Code. Attach additional pages as needed):

Describe the reasons why approval of the Special Permit would not adversely affect the public health, safety or welfare or the reasonable use of adjoining properties:

We only propose to replace iron panels w/ graduated picket panels. The height of the panels will be no more than 4' & extend a maximum 6' on either side, parallel with the sidewalk.

Describe the reasons why the Special Permit can be granted without substantial impairment of the intent and purpose of Chapter 8, entitled *Buildings and Building Regulations*, or Chapter 25, entitled *Public Rights-of-Way* of the Chevy Chase Village Code

At one point, there was a white picket fence that bounded the entirety of the property on the W. Kirke & party Magnolia Parkway.

In exercising its powers in connection with a Special Permit request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.

Special Permit Filing Fees	Checks Payable To: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
<i>Per Village Code Sec. 6-2(a)(24):</i> <input type="checkbox"/> \$300.00 for new construction. <input checked="" type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$2,250.00 for demolition of main building. <input type="checkbox"/> \$300.00 for demolition of accessory building or structure. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. Fee Paid: <i>\$150.00</i>	Date Paid: <i>5/21/15</i> Staff Signature: <i>[Signature]</i>
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. Signature: _____ Village Manager Date: _____

May 21, 2015

GENERAL BACKGROUND:

27 W. Kirke Street occupies the corner lot at W. Kirke Street and Magnolia Parkway. Built in 1919, the house is a Classical Revival design that is a contributing resource within the CCV Historic District. The lot on which the house sits is unusual in that the 25' BRL on the East side of the property actually dissects the house and is grandfathered into the Title Insurance. At one point (we believe prior to 1980), there was an extensive white picket fence that fronted the entirety of the house along W. Kirke Street. The lot is irregularly shaped: it is truncated by Magnolia Parkway; the house is located extremely far forward on the property line and the front BRL is therefore far back past the front plane of the house.

We have received HPC approval for the below-described proposals:

SPECIAL PERMIT REQUEST: REPLACEMENT OF IRON PANELS WITH PICKET PANELS:

On the W. Kirke side of our property, there are two posts topped by urns that flank the front walk. The posts are approximately 5 ½' tall, sit 2' from the sidewalk and are in the Village right away. Currently non-historically significant iron panels are attached to each post. We propose to replace those panels with a graduated white picket panel running parallel to the sidewalk. The tallest picket will be a maximum of 4' in height and the panel will gradually decrease in height. The entire length of the picket panel will extend 6' on either side of each post and be located 2' from the sidewalk.

APPLICATION FOR VARIANCE REQUEST: INSTALLATION OF A PRIVACY FENCE

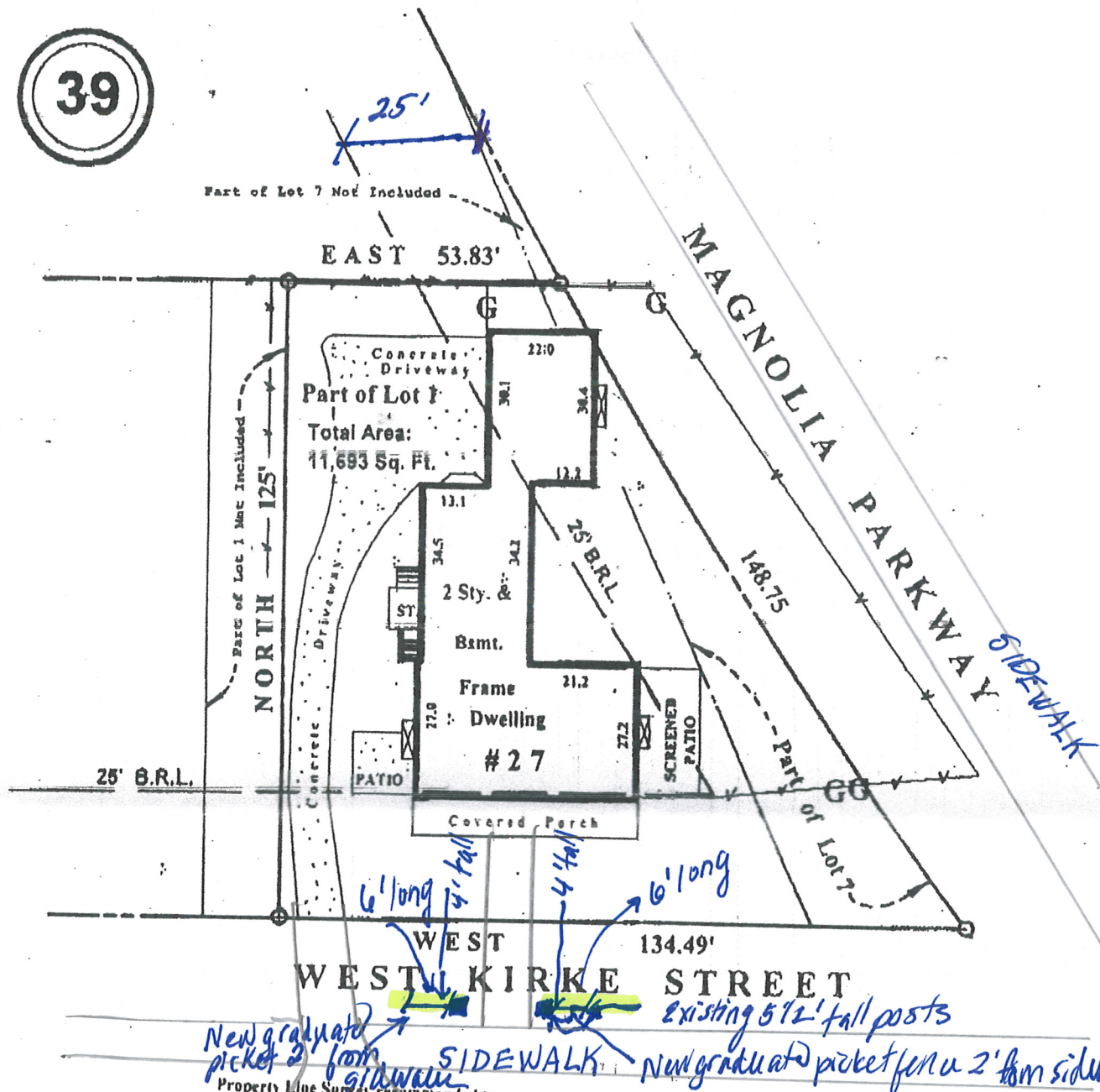
We seek permission to install a fence along part of the North side of our property that would measure 6 ½' in height and is forward of the 25-foot BRL. The fence will extend forward of the BRL by 25'.

separate application

LANDTECH ASSOCIATES, INC.

7307 Baltimore Avenue Suite 214
College Park, MD 20740
301-277-8878

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Location Drawing of:

#27 West Kirke Street

Section No. 2

CHEVY CHASE

LOT: Pts. 1 & 7

PLAT BK: 2

DATE: 5-06-03

CASE NUMBER:

BLOCK: 39

PLAT#: 106

SCALE: 1"=30'

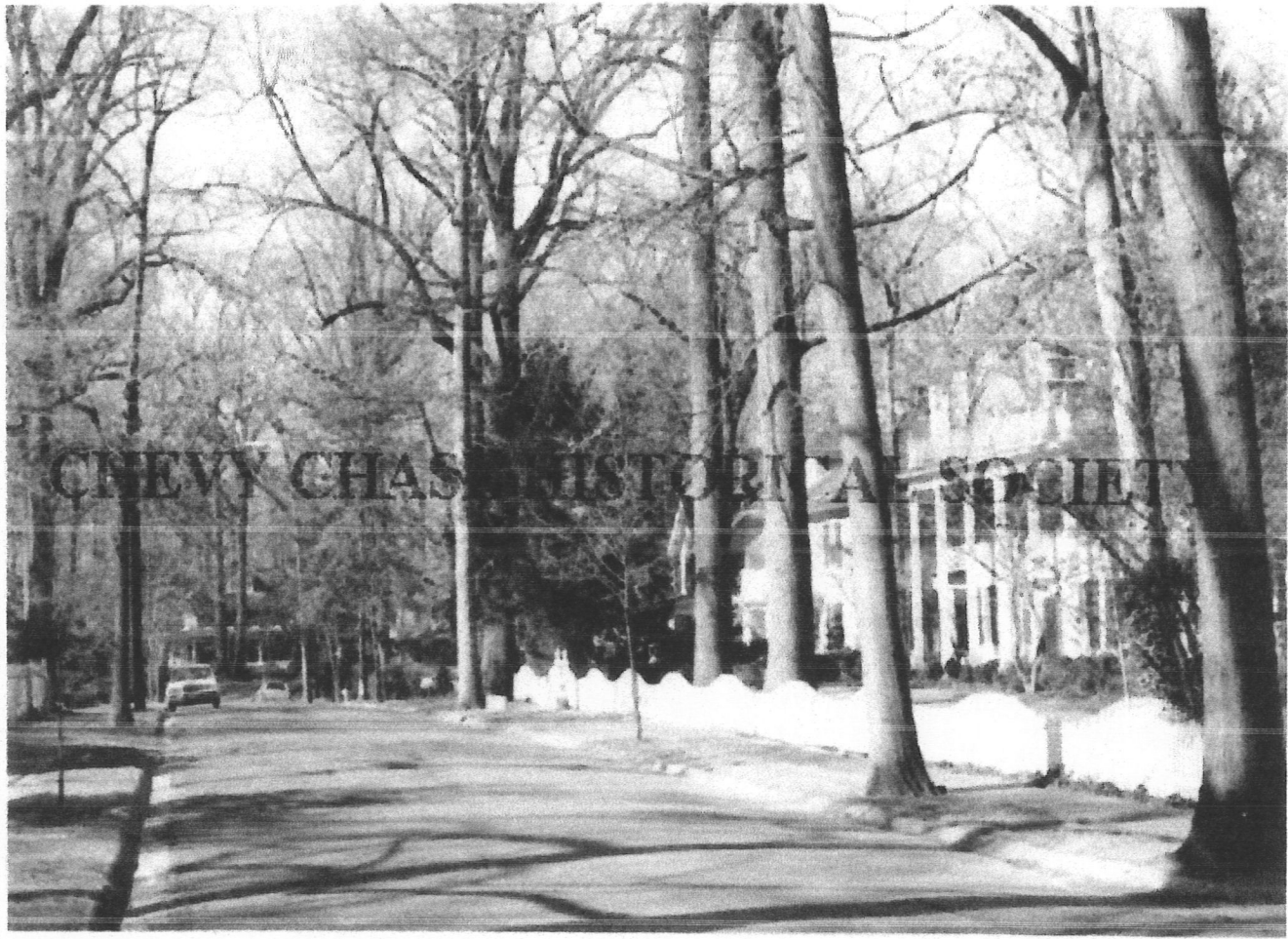
030658

N

9



SAMPLE GRADUATED FENCE FOR FRONT OF 27 W. KIRKE STREET, CHEVY CHASE
ALTHOUGH OURS WILL BE SHORTER IN BOTH LENGTH AND HEIGHT



27 W. KIRKE STREET
CHEVY CHASE VILLAGE

PHOTOGRAPH SHOWS FENCE THAT LINED THE PROPERTY
(BELIEVE IT WAS TAKEN DOWN IN THE 1990s)